

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NICK JASPER,

Plaintiff,

vs.

No. CV 18-00935 JB/SCY

MARK GALLEGOS, et al.,

Defendants.

ORDER ON PENDING MOTIONS

THIS MATTER is before the Court on Plaintiff's Motion for Extension of Time (Doc. 10) and Plaintiff's Motion for Appointment of Counsel (Doc. 11). The Court will deny both Motions as premature until completion of the Court's preliminary screening of the case under 28 U.S.C. § 1915A.

1. Plaintiff's Motion for Extension of Time (Doc. 10): In Plaintiff's Motion for Extension of Time, Plaintiff seeks an extension of time to file discovery motions. (Doc. 10 at 1). Requests for service of process, discovery, and submissions of proof are premature and unavailable prior to the Court's completion of its screening obligation under §1915A. *See Jones v. Bock*, 549 U.S. 199, 213-214 (2007). If Plaintiff's Complaint is not dismissed on initial screening, the Court will enter further orders governing service of process, discovery, and scheduling. The Court will deny the Motion for Extension of Time (Doc. 10) as premature at this point in the proceedings.

2. Plaintiff's Motion for Appointment of Counsel: There is no right to appointment of counsel in a civil rights case. Instead, the decision whether to request assistance of counsel rests in the sound discretion of the Court. *Beaudry v. Corrections Corp. of America*, 331 F.3d 1164, 1169 (10th Cir. 2003); *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir. 1988). In determining whether to appoint counsel, the district court should consider the merits of the

litigant's claims, the nature and complexity of the factual and legal issues, and the litigant's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004). The Court has reviewed the complaint and subsequent filings in light of the foregoing factors. Plaintiff appears to understand the issues in the case and to be representing himself in an intelligent and capable manner at this time. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the Motion for Appointment of Counsel (Doc. 11), without prejudice to a renewed request following completion of screening of the case.

IT IS ORDERED:

- (1) Plaintiff's Motion for Extension of Time (Doc. 10) is DENIED;
- (2) Plaintiff's Motion for Appointment of Counsel (Doc. 11) is DENIED; and
- (3) This ruling does not affect the stay of proceedings entered on November 16, 2018 (Doc. 12). The stay of proceedings remains in full force and effect until further order of this Court.


UNITED STATES MAGISTRATE JUDGE